UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,592	07/15/2005	Hiroshi Harada	KOY-16174	9091

40854 7590 01/12/2009

RANKIN, HILL & CLARK LLP
38210 Glenn Avenue
WILLOUGHBY, OH 44094-7808

EXAMINER	
TRAN LIEN, THUY	
ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
01/12/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/540,592	HARADA, HIROSHI	
	Examiner	Art Unit	
	Lien T. Tran	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 November 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2 and 6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2 and 6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *11/3/08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

The 112 second paragraph rejection is hereby withdrawn in view of the amendment filed on 11/3/08.

The 112 first paragraph rejection of claim 6 is hereby withdrawn because applicant's argument is found to be persuasive.

Claim 6 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6, the recitation of " the hot air desiccating machine" does not have antecedent basis. Claim 2 has not set forth a desiccating machine.

The new rejection is necessitated by amendment.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al. in view of Wear et al and Beaver et al

Lewis et al disclose a process for preparing soybeans products such as full fat soy flour, meal and grits. The process comprises the steps of cleaning soybeans so they be well-cleaned and free from extraneous weed seed, de-hulling the soybeans, heating the soybeans with live steam or water under atmospheric pressure at temperatures ranging from 85-100 degree C for 2.5-20 minutes, compressing the heated soybeans, drying the soybeans by hot air at temperatures below 95 degree C and pulverizing the treated soybeans depending on the physical form and the ultimate use of the material. The soybeans are dehydrated to about 3-4% moisture content (see columns 3, 5-6)

Lewis et al do not disclose the multiple air sorting, sieving and dehulling steps, the sterilization inspecting step, a classifying step and the grain sizes as claimed.

Beaver et al disclose a method for processing soybean. Beaver et al teach to cracked the soybean to break them and passing the cracked beans to multiples sifting and aspirating steps to separate out the desired fraction and to remove the hulls. Beaver et al also teach to reprocess the material not meeting the desirable size. (see col. 5 lines 10-40, col. 6 lines 3-19 and figure 2.)

Wear et al disclose a system for treating oilseeds. They teach both aspirator or air-stream sorter are used to remove the loose hulls from the raw beans. (see col. 3 lines 1-3)

Lewis et al. teach to remove the hulls from the soybean as shown in example 1. Lewis et al teach the beans are abraded; thus, this will cause cracks in the hulls. It would have been obvious to one skilled in the art to subject the beans to multiple sieving and hull removing steps to obtain the most optimum desirable product with the purest of the desired fraction. Such repeated removing and sifting steps are known in the art as taught by Beaver et al. Lewis et al teach to remove the hulls using aspiration equipment. As shown by Wear et al, both aspirator and air stream sorter are effective at removing hulls. Thus, it would have been obvious to one skilled in the art to use an air sorter as an alternative known device to perform the same function. Lewis et al teach a heating step before the dehulling step; thus, it is obvious the Lewis et al product is sterilized. It would have been obvious to one skilled in the art to do a sterilization inspection step to make sure the product is not contaminated and is as clean as

possible. Such step is a matter of optimizing and optimization is within the skill of one in the art. Lewis et al disclose the same steam-heating step; thus, it is obvious the beans are deodorized and the digestion inhibiting enzyme is inactivated. As to the little difference in the time, 2.5 minutes versus 2 minutes as claimed, it would have been obvious to one skilled in the art to vary the time a little as a variation in processing in absence of unexpected result or criticality. It would have been obvious to include a classifying step to sort the beans to any varying sizes and to pulverize the bean to any size depending on the intended use and the properties wanted. For example, if a very fine flour is wanted, it would have been obvious to pulverizing the beans to very fine size. Such determination can readily be determined by one skilled in the art through routine experimentation.

The new rejection is necessitated by amendment.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al in view of Jp 60-105468.

Lewis et al do not teach pulverizing using machine as the same time as the desiccating step.

Jp 60-105468 teaches pulverizing soybean with an air-stream pulverizer by introducing dried air thereto.

It would have been obvious to use the pulverizer as taught by Jp60-105468 in the Lewis et al process so that the drying and pulverizing steps can be carried out at the same time to reduce the time of processing. It would also have been obvious to carry out the step under sterile condition so that the final product is sterile. Such

determination can readily be determined by one skilled in the art without undue experimentation.

In the response filed 11/3/08, applicant argues the heating conditions in Lewis are such that the desirable enzymes are also denatured, resulting in a bland soy product. This argument is not supported by factual evidence. Applicant has not shown that the desirable enzymes in the Lewis et al process are denatured. Lewis et al teach steaming in the temperature range of 85-100 degree C for 2.5 to 20 minutes. Thus, the temperature claimed is within the range taught by Lewis and the time differs by 30 seconds. The instant specification discloses the time can range from 60-300 seconds. Thus, the time can be longer than the time now claimed. Applicant has not established criticality or unexpected result with respect to the time claimed.

Applicant also points out that Lewis et al do not teach two sieving steps and an additional dehulling step. The new limitations are addressed in the rejection above.

Applicant's arguments with respect to claims 2,6 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks, can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 7, 2009

/Lien T Tran/

Primary Examiner, Art Unit 1794